

In Re:)	Case No.	16-03619
Salomon Segura and Maria Segura)	Adversary:	
)	Chapter:	Chapter 13
)		
Debtor(s).)	Judge:	Jack Schmetterer
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Salomon Segura and Maria Segura,)		
)		
Plaintiff(s),)	Adversary Number:	16-00315
)		
v.)		
)		
US BANK, NA as Trustee for)		
Residential Asset Securities Corporation,)		
Home Equity Mortgage Asset-Backed)		
Pass-Through Certificates,)		
Series 2007-EMX1)		
And Ocwen Loan Servicing LLC)		
)		
Defendant(s).)		

Findings of Fact:

1. The Plaintiffs are Salomon Segura and Maria Segura (“Plaintiffs”).
2. The Defendants are US Bank, NA as Trustee for Residential Asset Securities Corporation, Home Equity Mortgage asset-backed pass-through certificates, Series 2007-EMX1 and Ocwen Loan Servicing, LLC (“Defendants”).

1. On February 5, 2016, Plaintiffs filed a petition for relief under Chapter 13 of the Bankruptcy Code.

2. Plaintiffs own the real estate commonly known as 324 E Major Dr, Northlake IL 60164.
3. That US Bank, NA as Trustee for Residential Asset Securities Corporation, Home Equity Mortgage asset-backed pass-through certificates, Series 2007-EMX1 holds a first mortgage on the real property commonly known 324 E Major Dr, Northlake IL 60164, with a secured value of \$122,686.33 pursuant to Ocwen Loan Servicing LLC's proof of claim, Claim 4.
4. The Defendant holds a second mortgage lien on the real property commonly known as 324 E Major Dr, Northlake IL 60164 in the amount of 46,788.42 pursuant to a recent mortgage statement. They have not filed a proof of claim in the underlying bankruptcy case.
5. That the Plaintiffs obtained from North East Appraisal, Inc an appraisal dated January 15, 2016, indicating the value of the 324 E Major Dr, Northlake IL 60164 as \$105,000.00.
6. The first mortgage lien of US Bank, NA as Trustee for Residential Asset Securities Corporation, Home Equity Mortgage asset-backed pass-through certificates, Series 2007-EMX1 is a secured claim based on the mortgage recorded on October 16, 2006 as document no. 0628941163 with the Cook County recorder of Deeds, Illinois.
7. The second mortgage lien US Bank, NA as Trustee for Residential Asset Securities Corporation, Home Equity Mortgage asset-backed pass-through certificates, Series 2007-EMX1 is a secured claim based on the mortgage recorded October 16, 2016 as document no: 0628941164 with the Cook County Recorder of Deeds, Illinois.

8. The Current Chapter 13 Plan provides the Plaintiffs will make monthly payments to the Chapter 13 Trustee in the amount of 230.00 per month for 36 months.
9. Under the Plan, general unsecured creditors will be paid a dividend of ten percent (10%) of their allowed claims.
10. On May 20, 2016, Plaintiffs filed a complaint and caused a summons to be issued pursuant to 11 U.S.C §506(a) and Bankruptcy Rule 3012 to determine the validity of Defendant's lien on Plaintiff's property located at 324 E Major Dr. Northlake IL 60164
11. On May 25, 2016 An Alias Summons was issued pursuant to 11 U.S.C §506(a) and Bankruptcy Rule 3012 in this proceeding.
12. On May 25, 2016, a copy of the alias summons and complaint was served on US Bank, NA as Trustee for Residential Asset Securities Corporation, Home Equity Mortgage asset-backed pass-through certificates, Series 2007-EMX1 in accordance with Rule 7004 (h) of the Federal Rules of Bankruptcy Procedure, by Certified mail on an officer (CEO Richard K Davis) of the insured depository institution.
13. On May 25, 2016, a copy of the alias summons and complaint was served on Ocwen Loan Servicing, LLC in accordance with rule 7004 (b) of the Federal Rules of Bankruptcy Procedure by Regular US Mail, postage prepaid to an officer of the Defendant at 1661 Worthington Rd, Ste100, West Palm Beach FL 33409 and upon the registered agent, Illinois Corporation Service Co, 801 Adlai Stevenson Dr, Springfield, IL 72703.
14. The alias summons indicated that a motion or answer was required within 30 days of issuance, to date, no responsive pleading has been filed.

15. No evidence has been presented to challenge the validity of the secured claim that holds priority over the second mortgage lien.
16. No evidence has been presented to challenge the appraised value of \$105,000.00.
17. The first secured claim of US Bank, NA as Trustee for Residential Asset Securities Corporation, Home Equity Mortgage asset-backed pass-through certificates, Series 2007-EMX1 in the amount of \$122,686.33 exhausts the value and equity in Plaintiff's residence.
18. There is no value or equity to support the claim of the Defendant.

CONCLUSIONS OF LAW

A. Jurisdiction

1. This contested matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(K). This court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 (a) and 1334(b).
2. Venue is proper in this district pursuant to 28 U.S.C §1409.

B. Argument

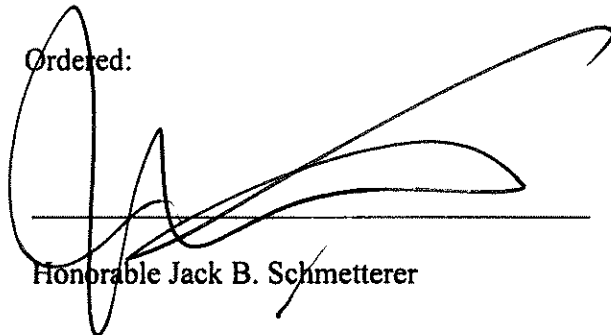
1. This action was initiated under 11 U.S.C §506(a) and F.R.Bankr.P. 3012.
2. Proof of claim was filed listing the secured claim of US Bank, NA as Trustee for Residential Asset Securities Corporation, Home Equity Mortgage asset-backed pass-through certificates, Series 2007-EMX1 by Ocwen Loan Servicing, LLC in the amount of \$122,686.33. No proof of claim was filed in regard to the junior mortgage.
3. The value of Plaintiff's residence at 324 E Major Dr, Northlake IL 60164 is \$105,000.00.

4. As there is no value or equity to support the second priority lien of US Bank, NA as Trustee for Residential Asset Securities Corporation, Home Equity Mortgage asset-backed pass-through certificates, Series 2007-EMX1 and Ocwen Loan Servicing, LLC, the claim is not a claim secured at all by a security interest in the Debtor's residence, as the term is used in §1322(b) of the Bankruptcy Code. The Chapter 13 Plan may value the collateral under F.R. Bankr.P. 3012, and determine the respective rights of secured creditors through the language used therein, contingent on confirmation thereof, completion of the Plan by the Debtor, and entry of the discharge. In re Meyer, 2009B 20268, Docket Entry 69 (Bankr.N.D.Ill. January 29, 2010).

Dated:

8/11/16

Ordered:



Honorable Jack B. Schmetterer

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